

PROB. 12B
(7/93)

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 01 2008
at 10 o'clock and 4 min. M.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: ARTHUR LEE, JR.

Case Number: CR 02-00523HG-02

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor
Chief U.S. District Judge

Date of Original Sentence: 4/19/2004

Original Offense: Count 1: Conspiracy to Distribute and Possess With Intent to Distribute 50 Grams or More of Methamphetamine and 50 Grams or More of Cocaine Base and Cocaine, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A), a Class A felony

Original Sentence: Sixty-three (63) months imprisonment term, followed by (5) years supervised release with the following special conditions: 1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant is prohibited from possessing any illegal or dangerous weapons; 3) That the defendant provide the Probation Office access to any requested financial information; and 4) That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 3/10/2008

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter, but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 1: That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 1	On 4/8/2008, the subject failed to submit to drug testing, in violation of Special Condition No. 1.

The subject's supervised release commenced on 3/10/2008. The subject was immediately referred to the Freedom Recovery Services (FRS) for counseling and Hina Mauka for random drug testing. In regard to drug testing, he is required to call a message recorder on a daily basis for drug testing requirements.

On 4/9/2008, we received notification from Hina Mauka that the subject failed to report for a drug test on 4/8/2008. When telephonically contacted, the subject stated that he may have forgotten to call the message recorder. He was verbally reprimanded and instructed to call the recorder daily.

The subject has a long-term involvement in the distribution of cocaine and methamphetamine. As a result, given the ruling in U.S. vs. Stephens, the recommended modifications will enable the Probation Office to implement controlling strategies to detect substance abuse and ensure that he does not reinvolve himself in noncompliant behavior.

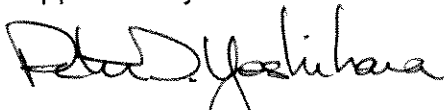
Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



MERILEE N. LAU
U.S. Probation Officer

Approved by:



PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 6/25/2008

THE COURT ORDERS:

☒ The Modification of Conditions as Noted Above
☐ Other



HELEN GILLMOR
Chief U.S. District Judge

6.27.08
Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

General Condition:

That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 1:

That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Witness:



MERILEE N. LAU
U.S. Probation Officer

Signed:



ARTHUR LEE, JR.
Supervised Releasee

6-19-08

Date